

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

KYLE MABE,

Plaintiff,

Case No. 2:10cv56

v.

COMMONWEALTH OF VIRGINIA, *et al.*

Defendants.

STIPULATION FOR DISMISSAL

TO THE HONORABLE JUDGE OF SAID COURT: Pursuant to Rule 41(a)(1)(ii), it is hereby stipulated and agreed that the complaint in the above-entitled case be dismissed; and

It is further stipulated and agreed that this Court shall retain jurisdiction to enforce the parties' Settlement Agreement. In the event of noncompliance or default of the Settlement Agreement, the Settlement Agreement can be filed with the Court on motion of the Plaintiff, and that the Court will then have the authority to enforce it; and

It is further stipulated and agreed that the Parties acknowledge and agree that counsel for Mabe are entitled to reasonable attorneys fees incurred in this matter as if Mabe had been a prevailing party. Counsel for Mabe has provided time and billing records to counsel for the Defendants to substantiate their fees. The parties stipulate and agree that if they have not agreed on the amount of fees prior to hearing set in this matter before this Court on January 26, 2011, Mabe's counsel may present to the Court the issue of what amount of Mabe's counsels' fees are reasonable and, therefore, payable to Mabe's counsel, and all parties hereby reserve this issue for this Court's determination in the event mutual agreement cannot be reached. In the event agreement is made by the parties prior to hearing, the parties will memorialize such agreement by an addendum to the Settlement Agreement memorializing their terms of agreement.

WHEREFORE, Plaintiff, Kyle Mabe and Defendants, the Commonwealth of Virginia, Virginia Department of Corrections, Gene M. Johnson, John M. Jabe, and Wendall W. Pixley, respectfully pray that the Court grant this Joint Motion for Dismissal and such other relief to which the Court may deem it entitled.

Dated: January 19, 2011 .

Respectfully submitted,

By: 

Steve C. Taylor, VSB #31174

stevetaylor@call54legal.com

James D. Higginbottom, VSB #77901

higginbottomj@call54legal.com

The Law Offices of Steve C. Taylor, P.C.

708A Thimble Shoals Blvd

Newport News, Virginia 23606

(757) 320-1661 Telephone

(757) 595-5518 Facsimile

Participating Attorneys for

THE RUTHERFORD INSTITUTE

COUNSEL FOR PLAINTIFF KYLE MABE

-and-

By: 

Richard C. Vorhis, SAAG, VSB #23170

rvorhis@oag.state.va.us

William W. Muse, SAAG, VSB #13559

wmuse@oag.state.va.us

Office of the Attorney General

Public Safety & Enforcement Division

900 East Main Street

Richmond, Virginia 23219

(804) 786-4805 Telephone

(804) 786-4239 Facsimile

COUNSEL FOR THE DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of January, 2011, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Steve C. Taylor, VSB #31174
The Law Offices of Steve C. Taylor, P.C.
133 Mt. Pleasant Road
Chesapeake, Virginia 23322
(757) 482-5705 Telephone
(757) 546-9535 Facsimile
Participating Attorneys for
THE RUTHERFORD INSTITUTE
stevetaylor@call54legal.com
ATTORNEY FOR PLAINTIFF

Richard C. Vorhis, SAAG, VSB #23170
rvorhis@oag.state.va.us
William W. Muse, SAAG, VSB #13559
wmuse@oag.state.va.us
Office of the Attorney General
Public Safety & Enforcement Division
900 East Main Street
Richmond, Virginia 23219
(804) 786-4805 Telephone
(804) 786-4239 Facsimile
ATTORNEYS FOR THE DEFENDANTS

/s/ James D. Higginbottom
James D. Higginbottom, VSB #77901
The Law Offices of Steve C. Taylor, P.C.
708A Thimble Shoals Blvd
Newport News, Virginia 23606
(757) 320-1661 Telephone
(757) 595-5518 Facsimile
Participating Attorneys for
THE RUTHERFORD INSTITUTE
higginbottomj@call54legal.com